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MEMO ENDORSED

May 23, 2013

BY FACSIMILE (212-805-7949)

The Hon. P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Conference Adjourned
From: June 12
To: Sept. 11 at 11:00 a.m.
SO ORDERED: [Signature]
P. KEVIN CASTEL, U.S.D.J.
Date: 5-23-13

Re: Lebron, et al. v. Apple-Metro, Inc., et al. – No. 13-cv-01411 (PKC)

Dear Judge Castel:

As Your Honor is aware, we represent Plaintiffs in the above-referenced action. We write in connection with Defendants' letter, dated May 16, 2013, and Your Honor's Order, dated May 17, 2013, concerning the existence of a pending action filed on October 22, 2012 in the Eastern District of New York – *Marin, et al. v. Apple-Metro, Inc., et al.*, No. 12-cv-5274 (ENV)(CLP) (the "*Marin Action*") – which features at least some overlap with respect to the parties and claims at issue in the action at bar.¹

Counsel for all affected parties, including Defendants' counsel in the two actions (Littler Mendelson P.C.), as well as counsel for Plaintiffs in the *Marin Action* (Borelli & Associates P.L.L.C.) – who are copied on this letter, and reviewed its contents prior to our submission to the Court – have been in communication in the past days, and are in tentative agreement as to a mutually agreeable plan for proceeding cooperatively in the interest of justice, efficiency, and convenience for the affected parties, witnesses, and courts.

Consistent with that understanding among the parties, we write to respectfully request that the initial conference in this action (scheduled for June 12, 2013) be adjourned *sine die*, and that further proceedings in this action be held in abeyance for a period of 30 days. During the intervening period, the parties in the *Marin Action* anticipate making an appropriate application to the presiding judge, requesting that, subject to Your Honor's approval, this action shall be transferred to the Eastern District of New York and consolidated with the pending *Marin Action*,

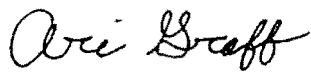
¹ The cases are not completely identical, and we would anticipate advancing such arguments before Your Honor in the event that the pending action is not transferred to EDNY as set forth herein.

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where the operative Complaint shall be amended, pursuant to a stipulation by the parties, so as to efficiently integrate the two cases into a single action, and further requesting leave of the presiding judge in the *Marin* Action to extend the discovery schedule to accommodate the consolidation of the two pending actions.

Thank you for Your Honor's consideration.

Respectfully submitted,



Ariel Y. Graff

cc: Craig R. Benson, Esq. (Counsel for Defendants – by email)
George B. Pauta, Esq. (Counsel for Defendants – by email)
Michael J. Borrelli, Esq. (Counsel for Plaintiffs in the *Marin* Action – by email)
Douglas L. Levine, Esq. (Counsel for Plaintiffs in the *Marin* Action – by email)